(PRIVATE LEGISLATION.)

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HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW

ONE HUNDRED FIRST CONGRESS

RULES OF PROCEDURE AND STATEMENT OF POLICY

(PRIVATE LEGISLATION)

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RULES OF PROCEDURE

1. All requests for consideration of a private bill shall commence with a letter directed to the chairman of the subcommittee from the author of such bill outlining relevant facts of the case and attaching thereto all pertinent data. Documentation provided to the subcommittee will only be accepted if submitted by the author of such bill. The following shall be submitted in triplicate:

(a) Date and place of birth of all beneficiaries. Address and telephone number in the United States.

(b) Dates of all entries (legal and illegal) and departures from the United States and type of visas for admission. Consulate where the beneficiary obtained a visa for entry to the United States; or where the beneficiary shall seek a visa.

(c) Status of any proceedings with the INS and whether any nonimmigrant or immigrant petitions have been filed on the beneficiary's behalf.

(d) Name, address, and telephone number of interested parties in the United States.

(e) Names, addresses, dates, and places of birth of all close relatives in the United States and abroad and their immigration status.

(f) Occupations, recent employment record, and salary of beneficiaries.

(g) Copies of all communications to and from INS or the State Department, including copy of an I–94, an order to show cause and any other relevant information.

(h) A copy and summary of all litigation relating to the beneficiary's case.

(i) Requests for consideration of a bill shall be accompanied by a statement by the beneficiary that he or she desires the relief sought by the bill and waiving the Freedom of Information Act and Privacy Act.

The information above represents the minimum requirements for subcommittee consideration. Pertinent data about the case and an explanation of the extreme hardship to the beneficiary or U.S. citizen must also accompany a request for processing of the private bill.

2. Each private bill shall provide that the beneficiaries must apply for the benefits of the enacted law within 2 years of notification of the passage of the private law.

3. No bill shall be scheduled until all administrative remedies are exhausted, including suspension of deportation, asylum, labor certification, and court proceedings.

4. The introduction of a private bill does not stay the deportation of aliens illegally in the United States or who have overstayed the terms of their visa. The committee shall not intervene in any such deportation proceedings and it will not address any communications to the Attorney General to request stays of deportation on behalf of beneficiaries of private bills, expect as indicated in rule 5.

5. The subcommittee shall entertain consideration of a request for a departmental report upon receipt of a letter from the author of the bill. In the case of beneficiaries who are in the United States, including those in parole status or asylee status, a determination on the request shall be subject to debate at a formal meeting of the subcommittee and only those cases designed to prevent extreme hardship to the beneficiary or a U.S. citizen will merit a request for a report. The Immigration and Naturalization Service may honor a request for a report by staying deportation until the final action is taken on the legislation.

6. The subcommittee shall request reports on private bills from other appropriate Federal agencies or departments and shall await receipt of such reports before taking final action.

7. Testimony at private bill hearings shall not be received from any person other than the author of the private bill. All requests to testify shall be addressed in writing to the chairman of the subcommittee.

8. A notice of meeting date shall be sent to the authors of all legislation which is scheduled.

9. A quorum of the subcommittee shall consist of two Members for the purpose of holding hearings on private bills.

10. Action on legislation shall not be deferred on more than one occasion due to nonappearance of the author.

11. Each bill in the following categories which may be proposed for consideration of the subcommittee shall be subject to a point of order unless its consideration is agreed to by a two-thirds vote of the subcommittee:

(a) Bills not previously listed on an agenda for a meeting and those bills not in compliance with these rules concerning the filing of documentation.

(b) Bills concerning beneficiaries who are receiving medical treatment, where documentation as to the availability of similar medical treatment in the beneficiaries' home country has not been submitted.

(c) Bills concerning foreign medical graduates who have not passed the Foreign Medical Graduate Examination in

the Medical Sciences (FMGEMS) and satisfied (or are exempt from) the 2-year foreign residence requirement.

(d) Bills relating to a waiver of the naturalization laws, including bills seeking expeditious citizenship for national, international, or Olympic competition.

(e) Bills on behalf of aliens and their derivatives seeking legalization under Public Law 99–603.

12. The subcommittee shall not take any further action on legislation which has been tabled by the full committee.

STATEMENT OF POLICY

On April 5, 1989, the subcommittee adopted as an addendum to its rules of procedure a statement of policy on private immigration bills which is set forth below.

The Subcommittee on Immigration, Refugees, and International Law has jurisdiction over all aspects of immigration law. In considering private immigration bills, the subcommittee reviews cases which are of such an extraordinary nature that an exception to the law is needed. In fairness to those immigrants who are awaiting legal immigration, it is the policy of the subcommittee generally to act favorably on only those private bills which meet certain precedents.

This policy statement will set forth the types of legislation which fall within the general parameters of favorable action and the criteria for reviewing certain categories of bills.

A. Adoption

Existing law provides for the immigration of foreign born adopted children if the adoption takes place while the child is under the age of 16 and (1) the child is an "orphan" as defined by immigration law or (2) the child has resided with the adopted parents 2 years. Those cases where the subcommittee has favorable precedents are when the child is of a young age and there has been a longstanding parent-child relationship. In support of any private bill relating to adoption, the following must accompany the request for subcommittee action:

(1) Home-study on the home of the prospective parents.

(2) Evidence of support of child—canceled checks, letters, and clothing.

(3) Statement detailing ages and occupation of natural parents and brothers and sisters.

(4) Communications with the Immigration and Naturalization Service regarding applicable U.S. adoption laws.

B. Doctors and Nurses

The Immigration and Nationality Act provides for the admission of foreign medical graduates if the doctor or nurse has passed certain exams required prior to seeking immigration. A doctor must pass the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS) which is given extensively throughout the world and a nurse must pass the Commission on Graduates of Foreign Nursing Schools exams (CGFNS).

Any alien seeking immigration must also have a job offer certified by the Department of Labor indicating there will be no displacement of U.S. labor.

In the past several years, the subcommittee has experienced a deluge of bills introduced on behalf of foreign medical graduates. The legislative history relating to this group indicates

many doctors enter the United States as nonimmigrants with the clear intention of remaining permanently. Legislation enacted in 1976 and 1977 sought to tighten the law requiring the return of such doctors to their home country; and recent legislation in 1981 generously grandfathered certain doctors for admission as permanent residents because of their length of time in the United States. It is the subcommittee's opinion the 1981 amendments to the Immigration and Nationality Act was the final chapter in a long and arduous struggle to provide equity to certain foreign medical graduates.

The subcommittee is also dismayed to find that doctors who are beneficiaries of private laws often swiftly seek more lucrative employment upon gaining permanent residence, thereby leaving medically under served areas without any medical assistance. Because of these experiences, the subcommittee intends to look with very little favor on doctor bills. Further, if a bill on behalf of a doctor or nurse is pursued, the following is required before scheduling will occur:

(1) Passage of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS) for doctors, and the Commission on Graduates of Foreign Nursing School exam (CGFNS) for nurses.

(2) Employment by the doctor or the nurse in a health manpower shortage area, or a recommendation by a U.S. Government agency indicating the doctor or nurse's services are needed. It is the subcommittee's desire that the beneficiary show substantial community ties over a long period of time. Extensive periods of employment would give the subcommittee some assurance there is every likelihood the doctor or nurse would remain employed in the area and provide medical services.

(3) Waiver of the 2-year foreign residence requirement (this applies to all exchange visitors).

(4) Documentation as to efforts the institution has made to recruit U.S. citizens for the position. Such information shall include salary levels of other doctors or nurses on staff and an explanation as to recruitment techniques on employment of the beneficiary.

(5) Copies of annual affidavits executed by participants in foreign medical graduate exchange programs.

Legislation approved by the subcommittee on behalf of doctors shall provide for suspension of deportation during an interim period while a doctor is serving in a community and permit adjustment of status to permanent residence upon completion of the designated time period.

C. Drugs and Criminal Activity

The subcommittee has few precedents for waiving grounds of exclusion relating to criminal activity. In the event such a bill is pursued, the following documents where available will be required:

(1) Complete transcripts of court proceedings relating to the conviction.

(2) All other records relating to offenses, including State, and local police records.

(3) Waiver of Privacy Act and Freedom and Information Act by the beneficiary.

(4) An affidavit (notarized) from the beneficiary describing his criminal record in full.

It is the intent of the subcommittee that all available information be submitted to the subcommittee. The subcommittee will conduct its own investigation with appropriate Government agencies.

It is also the subcommittee's desire to review testimony and affidavits relating to the beneficiary's behavior after any criminal offense. Such information is helpful in making a determination as to whether legislation will serve the best interests of the community. In this regard, letters of reference, bank records, and employment records are particularly helpful.

D. Medical Cases

The subcommittee shall be reluctant to schedule bills on behalf of persons who enter the United States on nonimmigrant visas or who are paroled for the purpose of seeking medical treatment. This type of visa is available to accommodate persons seeking advanced medical treatment which may be available only in the United States. Many cases have come to the attention of the subcommittee where the medical visa is used to enter the United States, and shortly thereafter, the person seeks permanent immigration. This type of activity undermines the intent of the medical visa; and flagrant abuses may seriously jeopardize its availability for those whose only recourse is treatment in the United States.

The subcommittee's reluctance to schedule such bills is based on the premise that persons may seek all available medical assistance while in the United States, but upon completion of any medical treatment the purpose of the visa expires and the alien must return home.

The subcommittee also notes the increasing number of private bills in similar cases whereby the beneficiary seeks relief solely on the basis of the need for medical treatment on ailments which were precedent or developed after arrival in the United States. It is therefore the policy of the subcommittee in such cases that advisory opinions be sought by the author from such organizations as the World Health Organization and the

Pan American Health Organization as well as the various country representatives of where the beneficiary resides or is a native as to the availability of medical treatment for such physical ailments.

E. Deferred Action Cases

The subcommittee shall be reluctant to schedule any bills on behalf of aliens who are in "deferred" status. It is the subcommittee's understanding that the Immigration and Naturalization Services reserves the conferral of such status to cases of a particularly compelling nature. In view of INS action in this regard, the subcommittee does not see any need for legislative action.

F. Investors

Recent public legislation enacted on behalf of investors provided relief for persons who were able to establish their qualification for a nonpreference visa prior to June 1978.

The subcommittee has studied the many cases relating to investors and has found many beneficiaries did not sufficiently acquaint themselves with the law prior to making an investment and operated under illusions with respect to qualifying for immigration.

It is the subcommittee's opinion that most investors who entered the United States after the June 1978 date were aware that immigrant visas would not be available in the foreseeable future, and there are no precedents for enactment of a private law solely based on a person's investment in the United States.

In the event a Member wishes to pursue this type of bill, the following is required: Tax records, contracts, bank statements, and other pertinent information relating to the investment.

G. Waiver of Exclusions

1. Health.—All bills waiving the grounds of exclusion for mental or physical infirmities will require the posting of a bond. The subcommittee notes there are few precedents for cases in this category. In order to obtain the best possible information, the subcommittee will require all medical records as well as information from the State and/or Federal Government concerning possible public charge aspects of the case.

2. Draft Dodgers.—There are few precedents for favorable action on behalf of draft dodgers, and it shall be the subcommittee's policy to continue to view such bills unsympathetically.

3. Fraud.—The subcommittee has been extremely reluctant to act favorably on cases involving visa fraud, and it shall be the policy of the subcommittees to adhere closely to precedents in this category.

H. Naturalization

The subcommittee shall require any bill relating to expediting naturalization be accompanied by evidence indicating such action would be in the national interest, as opposed to personal gain. There are few precedents for favorable action on bills waiving any naturalization requirements or granting posthumous or honorary citizenship. It is the subcommittee's intent generally to view unfavorably legislation in this area and notes more appropriate mechanisms for rewarding individuals may be in the form of honoraria, medals, awards, statues, etc.

The subcommittee is extremely concerned by the continued requests to expedite citizenship on behalf of athletes seeking competition in national, international, or Olympic games. The subcommittee does not condone bestowal of U.S. citizenship through an act of Congress solely on the basis of a person's athletic ability or other personal qualities, while fully qualified individuals must adhere to statutory as well as administrative timeframes for naturalization. Therefore, the subcommittee has requested that the national and international competitive groups review their rules governing citizenship qualifiers in lieu of congressional action.

The subcommittee also notes there are few instances of favorable action on behalf of individuals who renounce U.S. citizenship, and the policy of the subcommittee shall be to adhere to precedents in this category.

I. Legalization

In view of recent congressional action legalizing the status of aliens who entered the United States prior to January 1, 1982, the subcommittee shall require that those eligible for benefits under Public Law 99–603, "The Immigration Reform and Control Act of 1986," pursue administrative relief. Additionally, the subcommittee notes that legalized beneficiaries may exercise the same petitioning rights as all other immigrants upon granting of permanent residence, and that Congress did not provide derivative benefits to accrue outside normal immigration levels. Consistent with legislative intent, the subcommittee shall be reluctant to consider special exceptions from the general law unless there are extraordinary and compelling circumstances.

J. Bills Tabled in a Previous Congress

Commenting on requests for reconsideration of legislation, Thomas Jefferson noted the right of reconsideration is not "a right to waste the time of the House in repeated agitations of the same question, so that it shall never know when a question is done with. . . ."

The subcommittee has been confronted with an increasing number of requests for reconsideration of private bills which have been tabled by the full committee in previous Congresses.

It has been the experience of the subcommittee that each bill is given sufficient review during the meetings of the subcommittee and the authors are afforded ample time to present the merits of the case. Repetitious consideration of these cases operates to the detriment of other private bills which are pending and reflects poorly on the integrity of the private bill process. For these reasons, the subcommittee will be reluctant to reverse or reconsider its prior action absent new evidence or information that was not available or could not have been obtained by the author at the time of actual consideration by the subcommittee.

K. Timeframe for Obtaining Relief Upon Enactment of a Private Law

The subcommittee has monitored the situations concerning the applications for relief by beneficiaries of private immigration laws and expresses its concern that in many cases the subjects of private bills do not exercise their petition for relief after enactment in a timely manner.

Certain cases have come to the subcommittee's attention whereby relief after enactment of a private law was not sought until 10 years thereafter, and in other cases the subcommittee is dismayed to learn that beneficiaries have not sought immediate relief.

In view of the lengthy deliberations by the subcommittee on each bill processed under its jurisdiction, it appears incumbent upon the subcommittee to assure that the beneficiaries of such bills apply themselves in a diligent manner and seek relief as expeditiously as possible upon enactment.

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